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14 GOOGLE INC.

15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA

17 SAN FRANCISCO DIVISION

18 ORACLE AMERICA, INC.

19 Plaintiff,

20 v.

21 GOOGLE INC.

22 Defendant.

Case No. 3:10-cv-03561-WHA

Honorable Judge William H. Alsup

**GOOGLE INC.'S RESPONSE TO THE
COURT'S ORDER TO SHOW CAUSE**

RESPONSE TO SHOW CAUSE ORDER

On October 28, 2010, the Court ordered Google Inc. to show cause why its pending motion to dismiss count VIII of plaintiff's complaint or, in the alternative, for a more definite statement, filed on October 4, is not moot in view of Oracle America Inc.'s recently-filed Amended Complaint For Patent And Copyright Infringement. Because Oracle's Amended Complaint effectively concedes the merits of Google's motion to dismiss and supersedes the original complaint, Google agrees with the Court's suggestion that the filing of the Amended Complaint renders moot the specific issues raised in Google's motion. Google therefore agrees that its Motion To Dismiss should be denied as moot, without prejudice to Google's right to file a new motion to address issues raised by Oracle's Amended Complaint.

In the spirit of proceeding as efficiently as possible through the early stages of this case, Google notes that Oracle's filing of the Amended Complaint will require Google to file a new answer (to the Amended Complaint) and counterclaims, which will replace Google's original Answer And Counterclaims, filed on October 4, and will become Google's operative pleading. Accordingly, Google believes that Oracle's pending motion to dismiss and to strike, filed on October 26, is also moot, or will necessarily become so once Google files its answer to the Amended Complaint. Oracle's motion is directed to Google's answer to Oracle's original complaint and its counterclaims asserted in response to the original complaint, which will in the near future be superseded by a further pleading. Thus, as Oracle argued in opposition to Google's motion to dismiss, Oracle's motion to dismiss and to strike should also be denied on the grounds that it will be moot once Google responds to the Amended Complaint.

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1 Dated: November 1, 2010

Respectfully submitted,

2 KING & SPALDING LLP

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4 By: /s/ Scott T. Weingaertner /s/

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20 I, Donald F. Zimmer, Jr., as the ECF user and filer of this document, attest that
21 concurrence in the filing of this document has been obtained from the other signatory.
22

23 Dated: November 1, 2010

By: /s/ Donald F. Zimmer, Jr. /s/

24 For Defendant GOOGLE INC.
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